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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re C.R., a Person Coming Under
the Juvenile Court Law.

B269350
(Los Angeles County
Super. Ct. No. DK12604)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.R.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.
Teresa Sullivan, Judge. Affirmed.

Elizabeth Klippi, under appointment by the Court of Appeal, for
Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County
Counsel, Jacklyn K. Louie, Deputy County Counsel, for Plaintiff and
Respondent.

D.R. (Father) appeals the dependency court's jurisdictional and dispositional orders. He argues that the dependency court's finding of jurisdiction was unsupported by substantial evidence, and that the dependency court erred by ordering removal of his child. We affirm.

FACTS

This matter came to the attention of the Department of Children and Family Services (DCFS) on July 22, 2015. DCFS received a referral that C.R., a girl born in August 2013, was a victim of caretaker absence. C.R. had been in a motel room with Father that morning when Father was arrested for unlawful sexual intercourse with a minor.

Father, who was born in 1983, was interviewed by a DCFS social worker. He told the social worker that C.E. (Mother) was unstable and unable to care for C.R., and that he had primarily cared for C.R. since she was one month old. Father did not know where Mother was currently living and said that he had not had contact with her for approximately a year. Father impregnated Mother when Mother was 17 years old.

A prior referral, from March 2014, alleged that Father refused to let Mother care for C.R. because he believed Mother was using drugs and engaging in prostitution. Mother reportedly became upset and swung a box cutter at Father. Father had to move C.R. away to prevent her from being cut, and he sustained a cut to his arm in the process. The referral investigation was concluded as inconclusive.

The social worker spoke with the police officer who arrested Father on July 22, 2015. According to the officer, a 16-year-old contacted law enforcement and reported she was raped by Father. Father's semen was found on the girl. Father was jailed on a felony charge. He was subsequently released from jail on July 25, 2015.

At the detention hearing, the dependency court ordered C.R. detained and placed temporarily with DCFS. DCFS was ordered to provide family reunification services, and Father was to be provided with monitored visits.

On September 28, 2015, DCFS filed an amended Welfare and Institutions Code section 300¹ petition alleging, in part, that Father had sexually abused a child by forcibly raping her, an act for which he was arrested on July 22, 2015. The petition further alleged that Father and Mother had a history of engaging in physical altercations and that, in January 2015, while in the presence of C.R., Father struck Mother with his fist, pulled her hair, knocked her to the ground, and kicked Mother. Additionally, it was alleged that, in 2012, Father engaged in sexual intercourse with Mother while she was a minor, resulting in the birth of C.R., and that Father commercially sexually exploited Mother.

Father was interviewed by the DCFS social worker for the jurisdiction/disposition report. Father said he met Mother at a train station around her 18th birthday, and that she became pregnant from their first sexual encounter. After C.R. was born, he and Mother lived together for approximately one month and Mother then left him and the baby.

When asked about allegations that he had raped a 16-year-old in December 2014, he said that the night of the incident he was invited to a hotel room by three girls. He had consensual sex with one of them and then left. Father said he thought everyone in the hotel room was adult.

The social worker talked to a detective regarding the status of the investigation of the December 2014 incident and was told that DNA evidence confirmed Father had sex with the minor, but the case was rejected by the

¹ Unless otherwise noted, all further statutory references are to the Welfare and Institutions Code.

district attorney's office because the minor would not make herself available to testify. Additionally, the minor reported that she consented to sex with Father.

Mother was interviewed by the DCFS social worker. When asked how she met Father, she replied, "He was my pimp." Mother said she was 17 when she met Father, that Father was aware of her age, and that she got pregnant the first time they had sex. They had a two-year relationship, during which time she was "working" for him. According to Mother, Father slapped her, kicked her, knocked her to the ground, and pulled her hair. Mother also said that Father had another girlfriend, or a girl working for him, that was underage. She stated, "[I]t's not new to me because he did it to me. He forced sex with me; he would choke me and pull my hair. If he could do this to a young girl he could possibly do this to his own kid."

A last minute information form, filed on November 16, 2015, stated that Father called the social worker and suggested that visits between Mother and C.R. should not occur because Mother did not care about the child. When told that Mother was entitled to visits and that Father should not try to prevent them, he responded that he could tell Mother what to do because he and Mother were supposed to be together. Mother was interviewed and said that she and Father were "cool now," and that she was fine with Father having custody of C.R. Father's visits with C.R. were consistent and without incident. C.R. was comfortable in the presence of both Father and Mother, and when meeting with one or the other would greet them with "daddy" or "mommy."

The jurisdiction and disposition hearing was held on November 16, 2015. The dependency court sustained three counts alleged in the amended petition. C.R. was declared a dependent of the court and placed in the care of

DCFS for suitable placement. Father was to be provided reunification services including domestic violence and sex abuse counseling, as well as parenting classes.

DISCUSSION

I. Jurisdiction

Father contends there was insufficient evidence to sustain the petition against him. He argues that the dependency court should not have found jurisdiction under either section 300, subdivision (b) or subdivision (d).

We review the dependency court's findings for substantial evidence. "In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact." (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547.) All conflicts are resolved and all legitimate inferences are drawn in favor of the dependency court's order. (*Ibid.*) "[W]e review the record in the light most favorable to the court's determinations." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) We do not reweigh the dependency court's resolution of issues of credibility or fact. (*Ibid.*)

One basis upon which the dependency court found jurisdiction under section 300, subdivision (b), was Father and Mother's history of engaging in physical altercations. Section 300, subdivision (b) provides that a child falls within the jurisdiction of the dependency court when: "The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child"

Father argues that the acts of physical violence with Mother were isolated and occurred well prior to the jurisdiction hearing. He relies on *In re Daisy H.* (2011) 192 Cal.App.4th 713 in arguing that the possibility of harm to C.R. was not sufficiently likely to impose jurisdiction. That case held: “Physical violence between a child’s parents may support the exercise of jurisdiction under section 300, subdivision (b) but only if there is evidence that the violence is ongoing or likely to continue and that it directly harmed the child physically or placed the child at risk of physical harm.” (*Id.* at p. 717.)

In contrast to this case, the domestic violence at issue in *In re Daisy H.* occurred seven years prior to the filing of the section 300 petition. (*In re Daisy H., supra*, 192 Cal.App.4th 713, 717.) Here, the evidence illustrated a history of domestic violence between Mother and Father, continuing until shortly before dependency proceedings were initiated. There was a report that, in March 2014, Mother cut Father with a box cutter while Father held C.R., and, in January 2015, Father beat Mother, knocking her to the ground. Mother also reported that Father forced her to have sex, choked her, and pulled her hair. The facts of this case are thus more similar to those described in *In re R.C.* (2012) 210 Cal.App.4th 930, 944, where the court found that, despite the parents’ separation, their history of acts of domestic violence, including violence in front of a child, supported a finding of jurisdiction. Indeed, a long line of cases has held that domestic violence harms children and is a valid basis for finding dependency jurisdiction. “Both common sense and expert opinion . . . indicate spousal abuse is detrimental to children.” (*In re Sylvia R.* (1997) 55 Cal.App.4th 559, 562, citing *In re Benjamin D.* (1991) 227 Cal.App.3d 1464, 1470, fn. 5; see also

In re Heather A., *supra*, 52 Cal.App.4th at p. 194; *In re Basilio T.* (1992) 4 Cal.App.4th 155, 168.)

Moreover, by the time of the jurisdiction hearing, Father had not relinquished the abusive attitude that previously led to violence with Mother. Father told the social worker that he could dictate Mother's decisions because he and Mother were supposed to be together. Given the history of domestic violence, including in the presence of C.R., and Father's apparent unwillingness to recognize his harmful conduct, the dependency court was justified in finding a substantial risk that C.R. would suffer serious physical harm.

Since substantial evidence supported jurisdiction under section 300, subdivision (b), it is unnecessary to determine whether jurisdiction was also appropriate under subdivision (d). "When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451; see also *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875.) This conclusion is further compelled here by the fact that jurisdiction was premised on acts committed by Mother as well as Father. "[T]he court takes jurisdiction over children (§ 300); it does not take jurisdiction over parents." (*In re Joshua G.* (2005) 129 Cal.App.4th 189, 202.) "[A] jurisdictional finding good against one parent is good against both. More accurately, the minor is a dependent if the actions of either parent bring her within one of the statutory definitions of a

dependent.” (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) Mother did not appeal from any of the dependency court’s findings, including whether jurisdiction was proper. Because jurisdiction has been established, we need not determine if it was justified under further grounds.

II. Disposition

Father argues that the dependency court erred by removing C.R. from his custody. He notes that almost four months elapsed between the detention hearing and disposition, that he had enrolled in parenting and anger management classes and individual therapy, and that he consistently and appropriately visited with C.R.

The dependency court acted properly, however, in taking into account the circumstances that brought C.R. within the jurisdiction of the court. A dependency court may consider both the past and the present conduct of a parent in fashioning a dispositional order. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.) *In re Henry V.* (2004) 119 Cal.App.4th 522, a case relied on by Father in which the appellate court reversed a removal order, is distinguishable. The court in that case noted that the child’s exposure to violence was a “single occurrence.” (*Id.* at p. 529.) In contrast, during C.R.’s short lifetime, she had been exposed to multiple incidents of physical violence and raised in an environment where Father was apparently “pimping” underage prostitutes. Furthermore, the record in *In re Henry V.* was absent “of any indication on the record that either the court or the Agency understood the necessity of making the dispositional findings on clear and convincing evidence.” (*Id.* at p. 530.) That was not the case here. The dependency court expressly found by clear and convincing evidence that there would be substantial danger to C.R.’s physical health, safety, protection, and physical and emotional well-being if she were returned to Father.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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BOREN, P.J.

We concur:

CHAVEZ, J.

HOFFSTADT, J.